

Decision 06-07-019 July 20, 2006

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

Application of Southern California Edison Company (U 338-E) for Authorization: (1) to Replace San Onofre Nuclear Generating Station Unit Nos. 2 & 3 (SONGS 2&3) Steam Generators; (2) Establish Ratemaking for Cost Recovery; and (3) Address Other Related Steam Generator Replacement Issues.

Application 04-02-026  
(Filed February 27, 2004)

**OPINION GRANTING INTERVENOR COMPENSATION  
TO CALIFORNIA EARTH CORPS FOR  
SUBSTANTIAL CONTRIBUTIONS TO DECISION 05-12-040**

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**OPINION GRANTING INTERVENOR COMPENSATION  
TO CALIFORNIA Earth Corps FOR  
SUBSTANTIAL CONTRIBUTIONS TO DECISION 05-12-040**

This decision awards California Earth Corps (Earth Corps) \$116,850.55 in compensation for its substantial contributions to Decision (D.) 05-12-040. This represents a decrease of \$7,915.09 from the amount requested. This proceeding is closed.

**1. Background**

San Onofre Nuclear Generating Station Units 2 & 3 (SONGS) is a nuclear power plant with a capacity of approximately 2,150 megawatts jointly owned by Southern California Edison Company (SCE), San Diego Gas and Electric Company (SDG&E) and the cities of Anaheim and Riverside.<sup>1</sup> It is located on the California coast 62 miles southeast of Los Angeles, in San Diego County, near the City of San Clemente. The site is located within the boundaries of the Camp Pendleton Marine Corps Base (Pendleton). Each unit has two steam generators manufactured by Combustion Engineering, Inc. (CE). In each steam generator, the heat from water circulated through the reactor is used to turn another stream of water into steam to power turbines that turn electric generators.

SONGS is currently licensed by the Nuclear Regulatory Commission (NRC) to operate until 2022. SCE estimated that SONGS will likely be required by the NRC to shut down in 2009 because of the degradation of the steam

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<sup>1</sup> San Onofre Nuclear Generating Station Unit 1 is no longer operating and is not the subject of this proceeding.

generators. As a result, SCE requested approval in this application of its steam generator replacement program (SGRP).

Hearings were held from January 30 through February 11, 2005. The application was submitted on June 21, 2005. D.05-12-040 approved the SGRP with specified conditions, and certified the Final Environmental Impact Report (Final EIR) pursuant to the California Environmental Quality Act (CEQA).

## **2. Requirements for Awards for Compensation**

The intervenor compensation program, enacted in Pub. Util. Code §§ 1801-1812, requires California jurisdictional utilities to pay the reasonable costs of an intervenor's participation if the intervenor makes a substantial contribution to the Commission's proceedings. The statute provides that the utility may adjust its rates to collect the amount awarded from its ratepayers. (Subsequent statutory references are to the Public Utilities Code unless otherwise indicated.)

All of the following procedures and criteria must be satisfied for an intervenor to obtain a compensation award:

1. The intervenor must satisfy certain procedural requirements including the filing of a sufficient notice of intent (NOI) to claim compensation within 30 days of the prehearing conference (or in special circumstances, at other appropriate times that we specify). (§ 1804(a).)
2. The intervenor must be a customer or a participant representing consumers, customers, or subscribers of a utility subject to our jurisdiction. (§ 1802(b).)
3. The intervenor should file and serve a request for a compensation award within 60 days of our final order or decision in a hearing or proceeding. (§ 1804(c).)
4. The intervenor must demonstrate "significant financial hardship." (§§ 1802(g), 1804(b)(1).)

5. The intervenor's presentation must have made a "substantial contribution" to the proceeding, through the adoption, in whole or in part, of the intervenor's contention or recommendations by a Commission order or decision. (§§ 1802(i), 1803(a).
6. The claimed fees and costs are reasonable (§1801), necessary for and related to the substantial contribution (D.98-04-059), comparable to the market rates paid to others with comparable training and experience (§1806), and productive (D.98-04-059).

For discussion here, the procedural issues in Items 1-4 above are combined, followed by separate discussions on Items 5-6.

### **3. Procedural Issues**

The first prehearing conference in this matter was held on March 25, 2004. Earth Corps timely filed its NOI on April 26, 2004. In its NOI, Earth Corps asserted financial hardship.

Section 1802(b)(1) defines a customer as: A) a participant representing consumers, customers or subscribers of a utility; B) a representative who has been authorized by a customer; or C) a representative of a group or organization authorized pursuant to its articles of incorporation or bylaws to represent the interests of residential or small business customers. In this case, Earth Corps is a customer as defined in paragraph C because it is authorized pursuant to its bylaws to represent the interests of consumers, a portion of whom are residential customers.

On May 20, 2004, Administrative Law Judge (ALJ) Jeffrey P. O'Donnell ruled that Earth Corps is a customer pursuant to § 1802(b)(1)(C), and meets the financial hardship condition pursuant to § 1802(g). Earth Corps filed its request

for compensation on February 21, 2006, 64 days after D.05-12-040 was mailed, and 63 days after it was published.<sup>2</sup> As discussed in Section 7, we grant Earth Corps' March 3, 2006 motion to file its request late. In view of the above, we affirm ALJ O'Donnell's ruling and find Earth Corps has satisfied all the procedural requirements necessary to make its request for compensation.

#### **4. Substantial Contribution**

In evaluating whether a customer made a substantial contribution to a proceeding we look at several things. First, did the ALJ or Commission adopt one or more of the factual or legal contentions, or specific policy or procedural recommendations put forward by the customer? (*See* §1802(i).) Second, if the customer's contentions or recommendations paralleled those of another party, did the customer's participation materially supplement, complement, or contribute to the presentation of the other party or to the development of a fuller record that assisted the Commission in making its decision? (*See* §§ 1802(i) and 1802.5.) As described in § 1802(i), the assessment of whether the customer made a substantial contribution requires the exercise of judgment.

In assessing whether the customer meets this standard, the Commission typically reviews the record, composed in part of pleadings of the customer and, in litigated matters, the hearing transcripts, and compares it to the findings, conclusions, and orders in the decision to which the customer asserts it contributed. It is then a matter of judgment as to whether the customer's presentation substantially assisted the Commission.<sup>3</sup>

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<sup>2</sup> Earth Corps filed an amended request on April 7, 2006.

<sup>3</sup> D.98-04-059, 79 CPUC2d, 628 at 653.

Should the Commission not adopt any of the customer's recommendations, compensation may be awarded if, in the judgment of the Commission, the customer's participation substantially contributed to the decision or order. For example, if a customer provided a unique perspective that enriched the Commission's deliberations and the record, the Commission could find that the customer made a substantial contribution. With this guidance in mind, we turn to the contributions Earth Corps claims it made to the proceeding.

In its compensation request, Earth Corps did not attribute its claimed costs to specific issues. Additionally, it did not break down its costs between the issues raised in the evidentiary hearings regarding cost-effectiveness, and those related to the Final EIR. Therefore, we examine its contribution relative to the principal recommendations it made regarding cost-effectiveness and then address its contribution to the Final EIR.

### **Cost-Effectiveness**

- **Cost of the SGRP**

SCE estimated the cost of the SGRP at \$680 million. Earth Corps stated that SCE had inadequately considered the costs associated with transportation of the replacement steam generators, and transportation and disposal of the original steam generators. Earth Corps also stated that SCE used a \$6.4 million contingency to cover all costs associated with mitigating environmental impacts without having had discussions with the permitting agencies or identifying what the mitigation measures might be. As a result, Earth Corps recommended that SCE be required to re-submit its environmental analysis once the Final EIR is completed, and rerun its cost-effectiveness analysis based on those results. We did not adopt Earth Corps's recommendation, and instead adopted SCE's estimate of SGRP costs. However, in recognition of the uncertainties regarding

SCE's estimate, we included the effect of a ten percent increase in SGRP costs in our cost-effectiveness analysis to determine the sensitivity of the cost-effectiveness of the SGRP to cost increases. We also imposed a cap on SGRP costs. Therefore, we find Earth Corps made a substantial contribution regarding this issue.



- **Capital Additions**

SCE developed a high capital additions estimate 22% above its 2006 general rate case (GRC) estimate of capital additions. Earth Corps stated that SCE failed to include in its capital additions estimates the effects of ageing power plant components and recommended that SCE be required to rerun its cost-benefit analysis using a reasonable estimate of the costs for repair and replacement of ageing components. In the alternative, Earth Corps recommended an additional \$630 million in future capital additions.

We found a capital additions estimate of 25% above SCE's 2006 GRC estimate reasonable and appropriate for use in our base case. We also considered the effect of a ten percent increase above this level to determine the sensitivity of the cost-effectiveness of the SGRP to such increases. While we did not adopt Earth Corps' recommendation, our use of SCE's high capital additions estimate, and inclusion of the effect of a further 10% increase in our analysis recognized the uncertainty in SCE's estimates which Earth Corps and other parties illustrated. Therefore, we find Earth Corps made a substantial contribution regarding this issue.

- **Security Measures**

Earth Corps recommended increased operations and maintenance (O&M) expenses and capital additions to reflect its belief that more stringent security requirements will be imposed on SONGS by the NRC. We did not adopt Earth Corps' recommendation, but found the possibility of future increased security requirements supported our conclusion that some increase in future capital additions and O&M expenses above the amount forecast by SCE was appropriate. Therefore, we find Earth Corps made a substantial contribution regarding this recommendation.

Overall, we find Earth Corps made substantial contributions regarding all of its principal recommendations addressing cost-effectiveness.

We now address Earth Corps' contributions to the Final EIR.

### **Final EIR**

Earth Corps, along with many other governmental entities, private organizations and individuals, participated in the CEQA process and provided comments on the Draft EIR that were included in the Final EIR. The Final EIR is required to include the comments on the Draft EIR and to respond to those comments. Though the Final EIR includes Earth Corps' comments and provides responses, it does not necessarily mean that Earth Corps made a substantial contribution in this regard. We also note that many of the recommendations and comments made by Earth Corps were also made by other participants. To properly analyze Earth Corps' contribution, we look at its principal recommendations and comments on the Draft EIR, and the extent to which they resulted in substantial contributions to the Final EIR.

- **Environmental Baseline**

Earth Corps recommended the environmental review should include the effects of continued operation through the end of SONGS' license life. The effects include seismic risks, risks associated with spent fuel, security and the aging of plant components other than the steam generators. Earth Corps attached the testimony of consultant Gordon Thompson to its comments in support of its recommendation.<sup>4</sup> Thompson's testimony was considered in the

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<sup>4</sup> Thompson's testimony was received into evidence in the evidentiary hearings.

preparation of the Draft EIR.<sup>5</sup> We determined that since continued operations through the end of SONGS' license life was part of the environmental baseline, the effects of continued operations need not be included. Earth Corps' recommendation was not adopted, and we find Earth Corps did not make a substantial contribution regarding this recommendation.

- **Port of Long Beach**

Earth Corps recommended that operations at the Port of Long Beach, where the replacement steam generators will be transferred from ships to barges for transport to Del Mar Boat Basin near SONGS, should be addressed. Earth Corps' recommendation was not adopted, and we find it did not make a substantial contribution regarding this recommendation.

- **Original Steam Generator  
Transportation and Removal**

Earth Corps stated that transportation and disposal of the original steam generators were inadequately addressed. The Commission found otherwise. Earth Corps' recommendation was not adopted, and we find it did not make a substantial contribution regarding this recommendation.

- **Alternatives**

Earth Corps recommended that other sources of energy should be evaluated as alternatives to the SGRP. The Commission found that such options were considered under the no project alternative, and were not alternatives to the

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<sup>5</sup> Fees for Thompson are included in costs related to cost-effectiveness for which we find that Earth Corps made a substantial contribution. Any contribution to the Draft EIR due to Thompson's testimony is excluded herein to avoid double counting his fees.

SGRP itself. Earth Corps' recommendation was not adopted, and we find it did not make a substantial contribution regarding this recommendation.

- **Bridges**

Earth Corps recommended that the impacts of transportation of the replacement steam generators on bridges along the transportation route should be evaluated. We determined that the impact on bridges is not an environmental impact. Earth Corps' recommendation was not adopted, and we find it did not make a substantial contribution regarding this recommendation.

- **No Project Alternative**

Earth Corps recommended that energy conservation, distributed generation and recovery of public access to the SONGS site should be considered under the no project alternative. We determined that these matters had been adequately considered. However, as a result of Earth Corps' comments, we provided additional information in the Final EIR to clarify possible benefits of the no project alternative. While Earth Corps' recommendation was not adopted, it did contribute to the resolution of this issue and we find it made a substantial contribution regarding this issue.

- **Existing Regulations, Plans and Standards**

Earth Corps recommended that the EIR should include a discussion of any inconsistencies with applicable plans, regulations and standards. We found that such plans, regulations and standards had been adequately addressed. Earth Corps' recommendation was not adopted, and we find it did not make a substantial contribution regarding this recommendation.

- **Air Quality**

Earth Corps recommended air quality should be addressed by an analysis of the Commission's policy for replacement with conservation, solar generation,

renewable energy, distributed generation, and other alternatives. Earth Corps' recommendation was not adopted, and we find it did not make a substantial contribution regarding this recommendation.

- **Biological Impacts**

Earth Corps stated that biological impacts along the transport route were not adequately addressed, and recommended that a more thorough review be performed. As a result of Earth Corps' comments, we included in the Final EIR clarification that implementation of measures to avoid or minimize adverse biological impacts will require approval of the Camp Pendleton Marine Corps base. Though Earth Corps's recommendation was not adopted, it contributed to the resolution of this issue and, we find it made a substantial contribution regarding this issue.

Earth Corps recommended the Final EIR address the likelihood that SCE will need to obtain a permit under the Federal Clean Water Act for impacts resulting from river crossing or boat basin dredging due to transport of the replacement steam generators. As a result of Earth Corps' comments, we added overviews of the Federal Clean Water Act and the Federal Rivers and Harbors Act to the Final EIR and noted that permits may be required. We find Earth Corps made a substantial contribution regarding this recommendation.

- **Geology, Soils, and Paleontology**

Earth Corps recommended the possibility of landslides along the transportation route be more thoroughly addressed. As a result of Earth Corps' comments, a brief discussion was added to the final EIR to clarify potential baseline landslide hazards. Earth Corps helped develop the record regarding this matter and we find it made a substantial contribution regarding this issue.

Overall, we find Earth Corps made substantial contributions regarding four of its eleven principal recommendations addressed in its comments on the Draft EIR.

Regarding duplication, we realize that in a proceeding involving multiple participants, it is virtually impossible to completely avoid some duplication of the work of other parties. Earth Corps took all reasonable steps to keep duplication to a minimum and to ensure that its work served to supplement, complement, or contribute to the showing of the other parties. (*See* § 1802.5.)

## **5. Reasonableness of Requested Compensation**

### Requested Hours

#### Personnel Hours:

Sabrina Venskus	(Attorney)	314.08 hours
Philip Shakhnis	(Attorney)	37.90 hours
Gordon Thompson	(Expert)	85.00 hours
Joram Hopenfeld	(Expert)	50.00 hours
Don May	(Expert)	58.00 hours

#### Travel/Compensation Request Hours:

Sabrina Venskus	46.71 hours
Philip Shakhnis	6.00 hours
Don May	5.30 hours

In general, the components of this request must constitute reasonable fees and costs of the customer's preparation for and participation in a proceeding that resulted in a substantial contribution. The issues we consider to determine reasonableness are discussed below:

### **Hours and Costs Related to and Necessary for Substantial Contribution**

We first assess whether the hours claimed for the customer's efforts that resulted in substantial contributions to Commission decisions are reasonable by

determining to what degree the hours and costs are related to the work performed and necessary for the substantial contribution.

Earth Corps documented its claimed hours by presenting a daily breakdown of the hours spent by each attorney or expert, accompanied by a brief description of each activity. The hourly breakdown reasonably documents the total hours spent.

Based on Earth Corps' itemization of the time spent by each of the persons for whom compensation is requested, we allocate Earth Corps' requested hours as follows:

Allocation of Requested Hours

Cost-Effectiveness:

Venskus	272.88 hours
Shakhnis	36.10 hours
Thompson	85.00 hours
Hopenfeld	50.00 hours
May	35.70 hours

CEQA:

Venskus	35.20 hours
Shakhnis	1.80 hours
May	22.30 hours

Compensation Request:

Venskus	52.71 hours
Shakhnis	6.00 hours
May	5.30 hours

As discussed above, Earth Corps made a substantial contribution regarding all of its principal cost-effectiveness recommendations. As a result, we award compensation for all related hours. Regarding CEQA, since four of eleven recommendations were adopted, we award compensation for four elevenths of

the hours devoted thereto. As a result, the hours for which we award compensation are:



Award Hours

Cost-Effectiveness:

Venskus	272.88 hours
Shakhnis	36.10 hours
Thompson	85.00 hours
Hopenfeld	50.00 hours
May	35.70 hours

CEQA:

Venskus	12.81 hours
Shakhnis	0.66 hours
May	8.12 hours

Compensation Request:

Venskus	52.71 hours
Shakhnis	6.00 hours
May	5.30 hours

**Market Rate Standard**

We next take into consideration whether the claimed fees and costs are comparable to the market rates paid to experts and advocates having comparable training and experience and offering similar services. In Resolution ALJ-184, we set forth principles and guidelines for setting intervenor's hourly rates for work performed in 2004. In D.05-11-031, we set forth the principles and guidelines for 2005, and generally did not authorize increases above previously approved rates.

Earth Corps seeks an hourly rate of \$250 for Venskus for 2004, and 2005 work.<sup>6</sup> Earth Corps represents that Venskus is an attorney with a B.A. degree, a J.D. degree and a Certificate in Environmental and Natural Law, and has been

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<sup>6</sup> A small number of hours for Venskus and Shakhnis were charged in 2006 at the 2005 rate. As Earth Corps did in this request, we charge these hours at the 2005 rate.

practicing law for approximately five years. In D.05-11-031, we set the hourly rate for attorneys with five to seven years of experience at \$250-\$270 for 2004 and 2005.<sup>7</sup> The requested rate is at the lower end of that range and we find it reasonable for Venskus for 2004, and 2005.

Earth Corps seeks an hourly rate of \$250 for Shakhnis for 2005 work. Earth Corps represents that Shakhnis is an attorney with a B.A. degree and a J.D. degree, and has been practicing law for over seven years. In D.05-11-031, we set the hourly rate for attorneys with five to seven years of experience at \$250-\$270 for 2004 and 2005. The requested rate is at the lower end of that range and we find it reasonable for 2005.

Earth Corps seeks an hourly rate of \$150 for Thompson for 2004 and 2005 work. Earth Corps represents that Thompson has undergraduate degrees in science and mechanical engineering, a PhD in mathematics, and over 27 years of experience in evaluating nuclear safety and security issues. Earth Corps states that Thompson has provided technical analyses of nuclear safety, security and environmental issues for governmental and non-governmental organizations, and has provided testimony in legal and regulatory proceedings. In D.05-11-031, we set the hourly rate for intervenor experts at \$110-360 for 2004 and 2005. The rate requested for Thompson is at the low end of that range, is appropriate given his education and experience, and we find it reasonable for 2004 and 2005.

Earth Corps seeks an hourly rate of \$150 for Hopenfeld for 2004 and 2005 work. Earth Corps represents that Hopenfeld has undergraduate degrees and a PhD in engineering, and over 40 years of experience in industry and government

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<sup>7</sup> D.05-11-031 found that the rates for 2005 should be the same as for 2004.

primarily in the areas of steam generator testing and licensing. In D.05-11-031, we set the hourly rate for intervenor experts at \$110-360 for 2004 and 2005. The rate requested for Hopenfeld is at the low end of that range, is appropriate given his education and experience, and we find it reasonable for 2004 and 2005.

Earth Corps seeks an hourly rate of \$100 for work performed by Don May in 2004 and 2005. Earth Corps represents that May has a Bachelor's Degree in molecular biology and electrical engineering. Earth Corps states that May first became involved with SONGS by intervening in the licensing of SONGS on behalf of Friends of the Earth (FOE), and has directed the activities of FOE, and its successor Earth Corps, since 1988 on all state and federal regulatory issues regarding SONGS. In this proceeding, Earth Corps represents that May was responsible for managing the interests of Earth Corps, reviewing all filings, and consulting with Venskus on where to focus Earth Corps' efforts. In D.05-11-031, we set the hourly rate for intervenor experts at \$110-360 for 2004 and 2005. The rate requested for May is below that range and we find it reasonable for 2004 and 2005.

### **Productivity**

D.98-04-059 directed customers to demonstrate productivity by assigning a reasonable dollar value to the benefits of their participation to ratepayers. The costs of a customer's participation should bear a reasonable relationship to the benefits realized through their participation. This showing assists us in determining the overall reasonableness of the request.

This proceeding did not involve setting rates and no direct dollar benefit from an intervenor's participation can be identified. The SGRP will cost ratepayers hundreds of millions of dollars over the remaining license life of SONGS. The purpose of this proceeding was to determine whether the SGRP

should proceed. Earth Corps made a substantial contribution to that determination. Earth Corps' expenditures, given its substantial contribution to the Commission's analysis and benefits, are miniscule in comparison to the SGRP costs. Therefore, we find Earth Corps' participation was productive.

### **Direct Expenses**

The itemized direct expenses submitted by Earth Corps include costs for such things as travel, copying, postage, and telephone, and total \$3,738.08. These expenses are commensurate with the work performed, and we find them reasonable.

## **6. Award**

As set forth in the table below, we award Earth Corps \$116,850.55.

### Award

#### Cost-Effectiveness Hours:

Venskus	272.88 hours @ \$250/hr = \$68,220.00
Shakhnis	36.10 hours @ \$250/hr = \$ 9,025.00
Thompson	85.00 hours @ \$150/hr = \$12,750.00
Hopenfeld	50.00 hours @ \$150/hr = \$ 7,500.00
May	35.70 hours @ \$100/hr = \$ 3,570.00

#### CEQA Hours:<sup>8</sup>

Venskus	12.81 hours @ \$250/hr = \$3,203.20
Shakhnis	0.66 hours @ \$250/hr = \$163.80
May	8.12 hours @ \$100/hr = \$811.72

#### Compensation Request Hours:

Venskus	52.71 hours @ \$125/hr = \$6,588.75
Shakhnis	6.00 hours @ \$125/hr = \$ 750.00
May	5.30 hours @ \$100/hr = \$ 530.00

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<sup>8</sup> Hours rounded to nearest hundredth.

<u>Expenses:</u>	\$3,738.08
Total Award	\$116,850.55

Consistent with previous Commission decisions, we would normally order that interest be paid on the award amount (at the rate earned on prime, three-month commercial paper, as reported in Federal Reserve Statistical Release H.15). Since Earth Corps filed an amendment to its request, we find that its request was not complete until the amendment was filed (April 7, 2006). Therefore, we will award interest beginning on the 75th day after the date the amendment was filed (June 21, 2006) and continue until full payment is made. The award is to be paid by SCE, the applicant in this proceeding.

We remind all intervenors that Commission staff may audit their records related to this award and that intervenors must make and retain adequate accounting and other documentation to support all claims for intervenor compensation. Earth Corps' records should identify specific issues for which it requested compensation, the actual time spent by each employee or consultant, the applicable hourly rate, fees paid to consultants, and any other costs for which compensation was claimed.

## **7. Motion to Late File Intervenor Compensation Request**

On March 3, 2006, Earth Corps filed a motion to file its request for compensation late. Earth Corps explained in its motion that it calculated the due date based on the December 20, 2005 publishing date of D.05-12-040, rather than the mailing date of December 19, 2005.

Requests for compensation are required to be filed within 60 days of issuance of a final decision. D.05-12-040 was mailed December 19, 2005. The 60th day after mailing was Friday February 17, 2006. Earth Corps filed its request on Tuesday February 21, 2005 (Monday February 20, 2006 was a state

holiday). In its March 10, 2006 response, SCE opposed the motion stating that the request was untimely. SCE did not explain how it would be disadvantaged by our granting of the motion, and we have no reason to believe that any party, including SCE, would be disadvantaged. Therefore, since no party will be disadvantaged by our granting of the motion, and the request was filed on the next business day, we grant the motion.

#### **8. Amended Compensation Request**

On April 7, 2006, Earth Corps filed an amended compensation request. On April 21, 2006, SCE filed a motion to strike the amendment because the Commission's Rules of practice and Procedure (Rules) do not allow amendments to the request. The Rules are silent regarding such amendments. Since no party will be disadvantaged by our allowing the amendment, we deny SCE's motion.

#### **9. Waiver of Comment Period**

This is an intervenor compensation matter. Accordingly, as provided by Rule 77.7(f)(6) of our Rules, we waive the otherwise applicable 30-day comment period for this decision.

#### **10. Assignment of Proceeding**

Geoffrey F. Brown is the Assigned Commissioner and Jeffrey P. O'Donnell is the assigned ALJ in this proceeding.

#### **Findings of Fact**

1. Earth Corps has satisfied all the procedural requirements necessary to claim compensation in the proceeding.
2. Earth Corps made a substantial contribution to D.05-12-040 as described herein.
3. Earth Corps' requested hourly rates and related expenses are reasonable when compared to the market rates for persons with similar training and experience.

4. The total of the reasonable compensation is \$116,850.55.
5. The appendix to this opinion summarizes today's award.
6. On March 3, 2006, Earth Corps filed a motion to file its request for compensation late.
7. No party would be disadvantaged by our granting of Earth Corps' motion.
8. On April 21, 2006, SCE filed a motion to strike Earth Corps's April 7, 2006 amendment to its compensation request.
9. The Commission's Rules are silent regarding amendments to compensation requests.
10. No party would be disadvantaged by allowing Earth Corps to amend its compensation request.

### **Conclusions of Law**

1. Since Earth Corps has fulfilled the requirements of Pub. Util. Code §§ 1801-1812, which govern awards of intervenor compensation, it is entitled to intervenor compensation for its claimed compensation, as adjusted herein, incurred in making substantial contributions to D.05-12-040.
2. Earth Corps should be awarded \$116,850.55 for its contributions to D.05-12-040.
3. Earth Corps' March 3, 2006 motion to file its request for compensation late should be granted.
4. SCE's April 21, 2006 motion to strike Earth Corps' April 7, 2006 amendment to its compensation request should be denied.
5. Per Rule 77.7(f)(6), the comment period for this compensation decision may be waived.
6. This order should be effective today so that Earth Corps may be compensated without further delay.

**O R D E R**

**IT IS ORDERED** that:

1. California Earth Corps (Earth Corps) is awarded \$116,850.55 as compensation for its substantial contributions to Decision (D.) 05-12-040.
2. Within 30 days of the effective date of this decision, Southern California Edison Company (SCE) shall pay Earth Corps the total award. Payment of the award shall include interest at the rate earned on prime, three-month commercial paper as reported in Federal Reserve Statistical Release H.15, beginning June 21, 2006, the 75<sup>th</sup> day after the filing date of Earth Corps' amended request for compensation, and continuing until full payment is made.
3. Earth Corps' March 3, 2006, motion to file its request for compensation late is granted.
4. SCE's April 21, 2006 motion to strike Earth Corps' April 7, 2006 amendment to its compensation request is denied.
5. The comment period for today's decision is waived.
6. Application 04-02-026 is closed.

This order is effective today.

Dated July 20, 2006, at San Francisco, California.

MICHAEL R. PEEVEY  
President  
GEOFFREY F. BROWN  
DIAN M. GRUENEICH  
JOHN A. BOHN  
RACHELLE B. CHONG  
Commissioners



**APPENDIX****Compensation Decision Summary Information**

<b>Compensation Decision:</b>	D0607019	<b>Modifies Decision?</b> N
<b>Contribution Decision(s):</b>	D0512040	
<b>Proceeding(s):</b>	A0402026	
<b>Author:</b>	ALJ O'Donnell	
<b>Payer(s):</b>	Southern California Edison Company	

**Intervenor Information**

<b>Intervenor</b>	<b>Claim Date</b>	<b>Amount Requested</b>	<b>Amount Awarded</b>	<b>Multiplier ?</b>	<b>Reason Change/Disallowance</b>
Earth Corps	2/21/06	\$124,765.64	\$116,850.55	N	Failure to make substantial contribution

**Advocate Information**

<b>First Name</b>	<b>Last Name</b>	<b>Type</b>	<b>Intervenor</b>	<b>Hourly Fee Requested</b>	<b>Year Hourly Fee Requested</b>	<b>Hourly Fee Adopted</b>
Sabrina	Venskus	Attorney	Earth Corps	\$250	2004-6	\$250
Philip	Shakhnis	Attorney	Earth Corps	\$250	2005-6	\$250
Gordon	Thompson	Policy Expert	Earth Corps	\$150	2004-5	\$150
Joram	Hopenfeld	Policy Expert	Earth Corps	\$150	2004-5	\$150
Don	May	Policy Analyst	Earth Corps	\$100	2004-5	\$100

**(END OF APPENDIX)**